

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

RALPH STRANO, individually and on Case No. 1:21-cv-12987
behalf of all others similarly situated,

Plaintiff,

Judge Thomas L. Ludington
Magistrate Patricia T. Morris

v

KIPLINGER WASHINGTON
EDITORS,
INC.,

Defendant.

**DEFENDANT'S SUPPLEMENTAL BRIEF RE MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

CONCISE STATEMENT OF ISSUE PRESENTED

1. Whether Plaintiff Strano's \$5,000 "service award" creates an inappropriate incentive to settle regardless of the benefit to other class members.

Defendant's Answer: Defendant is not aware of any information to suggest that the proposed "service award" created an inappropriate settlement to settle. Defendant suggests that the Court should grant preliminary approval of the settlement and that this issue can be resolved when the Court considers final approval of the settlement.

2. Whether Plaintiff Strano is entitled to \$5,000 as a "service award."

Defendant's answer: Defendant has no first-hand knowledge as to Plaintiff Strano's involvement in the case other than his being a named plaintiff. Defendant notes that Plaintiff Strano has represented to this Court that he was extensively involved in the case and assisted his counsel in numerous ways. Defendant suggests that the Court should grant preliminary approval of the settlement and that this issue can be resolved when the Court considers final approval of the settlement.

CONTROLLING OR MOST IMPORTANT AUTHORITY

The controlling authority for this Brief is:

1. *Westley v. CCK Pizza Company, LLC*, 2019 WL 5653403, at *3 (E.D. Mich. Oct. 31, 2019) (Ludington, J.)

Defendant The Kiplinger Washington Editors, Inc. (“Kiplinger”), by and through undersigned counsel, hereby submits this supplemental brief in accordance with the Court’s August 26, 2022 Order (ECF No. 21).

This Court Should Grant Preliminary Approval of the Settlement and Defer Consideration of the Questions of Whether Plaintiff Strano’s \$5,000 “Service Award” Creates an Inappropriate Incentive to Settle Regardless of the Benefit to Other Class Members and Whether Plaintiff Strano is Entitled to \$5,000 as a “Service Award” until consideration of Final Approval of the Settlement

The motion for preliminary approval of that settlement was filed on July 8, 2022. ECF No. 19. The Court has ordered that each of the parties to submit supplemental briefing addressing (1) whether Plaintiff Strano’s \$5,000 “service award” creates an inappropriate incentive to settle regardless of the benefit to other class members and (2) why Plaintiff is entitled to \$5,000 as a “service award.”

Defendant is not aware of any information to suggest that the proposed “service award” created an inappropriate settlement to settle this case.

Furthermore, since this case was settled prior to the commencement of discovery, Defendant has no first-hand knowledge as to Plaintiff Strano’s involvement in the case, other than his being a named plaintiff. Defendant notes that Plaintiff Strano has represented to this Court that he was substantially involved in the case and assisted his counsel in numerous ways. Kiplinger is aware that in another matter this Court approved an incentive award of \$5,000 to a named plaintiff where it was represented to the Court that the plaintiff has been substantially involved in the

litigation. *See Westley v. CCK Pizza Company, LLC*, 2019 WL 5653403, at *3 (E.D. Mich. Oct. 31, 2019) (Ludington, J.).

Defendant suggests that the Court should grant preliminary approval of the settlement and defer consideration of the questions of whether Plaintiff Strano's \$5,000 "service award" creates an inappropriate incentive to settle regardless of the benefit to other class members and (2) why Plaintiff is entitled to \$5,000 as a "service award" until consideration of final approval of the settlement.

September 9, 2022

Respectfully submitted,

/s/ Walter E. Diercks

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CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2022, I electronically filed the foregoing Defendant's Supplemental Brief with the Clerk of the Court using the ECF system, and that a copy was electronically served on all counsel of record via the ECF system.

/s/ Walter E. Diercks